

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Antwan James, #272749,	)	Civil Action No.: 8:09-526-HFF-BHH
	)	
Petitioner,	)	
	)	
vs.	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	<b><u>OF MAGISTRATE JUDGE</u></b>
	)	
Warden McCormick Correctional	)	
Institution,	)	
	)	
Respondent.	)	

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On June 2, 2009, the respondent filed a motion for summary judgment. By order of this court filed June 2, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately.

On June 18, 2009, petitioner filed a motion for extension of time to respond to the motion for summary judgment. On June 19, 2009, a text order was entered granting an extension until July 31, 2009. Despite this extension and the explanation in the *Roseboro* Order, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, the court filed another order on August 12, 2009, giving the petitioner through September 4, 2009, to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner not respond.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp.*

*v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks  
United States Magistrate Judge

September 10, 2009

Greenville, South Carolina Carolina